

United States
Circuit Court of Appeals
For the Ninth Circuit.

R. L. SABIN,

Petitioner,

vs.

BLAKE, McFALL COMPANY, a Corporation,
KNIGHT PACKING COMPANY, a Corporation,
HAZELWOOD COMPANY, a Corporation, and WM. H. DRYER and W. W. BOLLAM, Partners Trading as DRYER, BOLLAM & CO.,

Respondents.

In the Matter of EQUAL RIGHTS COMPANY,
INCORPORATED, Alleged Bankrupt.

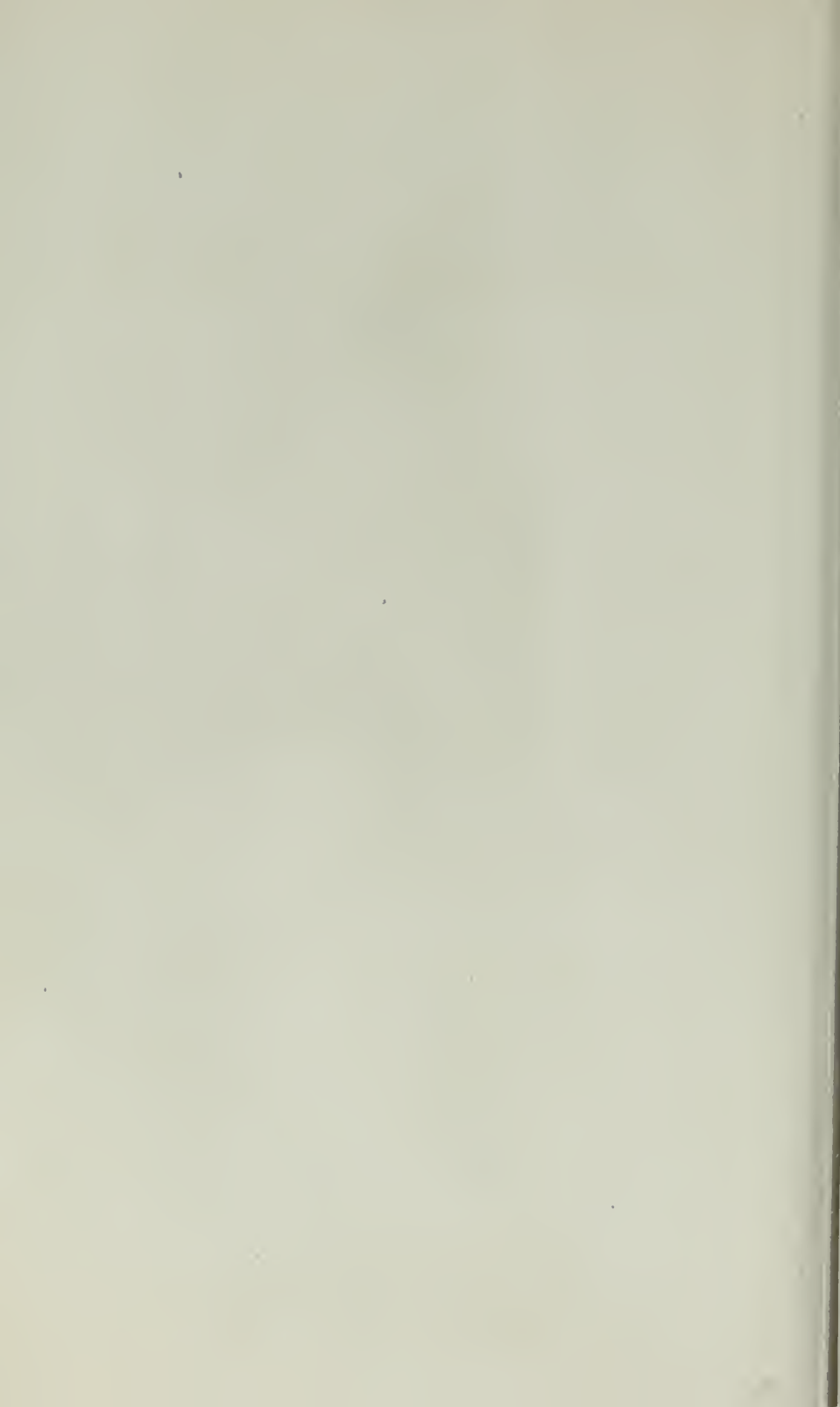
Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress,
Approved July 1, 1898, to Revise, in Matter of
Law, a Certain Order of the United
States District Court for the
District of Oregon.

Filed

JAN 23 1915

F. D. Monckton,
Clerk.



United States
Circuit Court of Appeals
For the Ninth Circuit.

R. L. SABIN,

Petitioner,

VS.

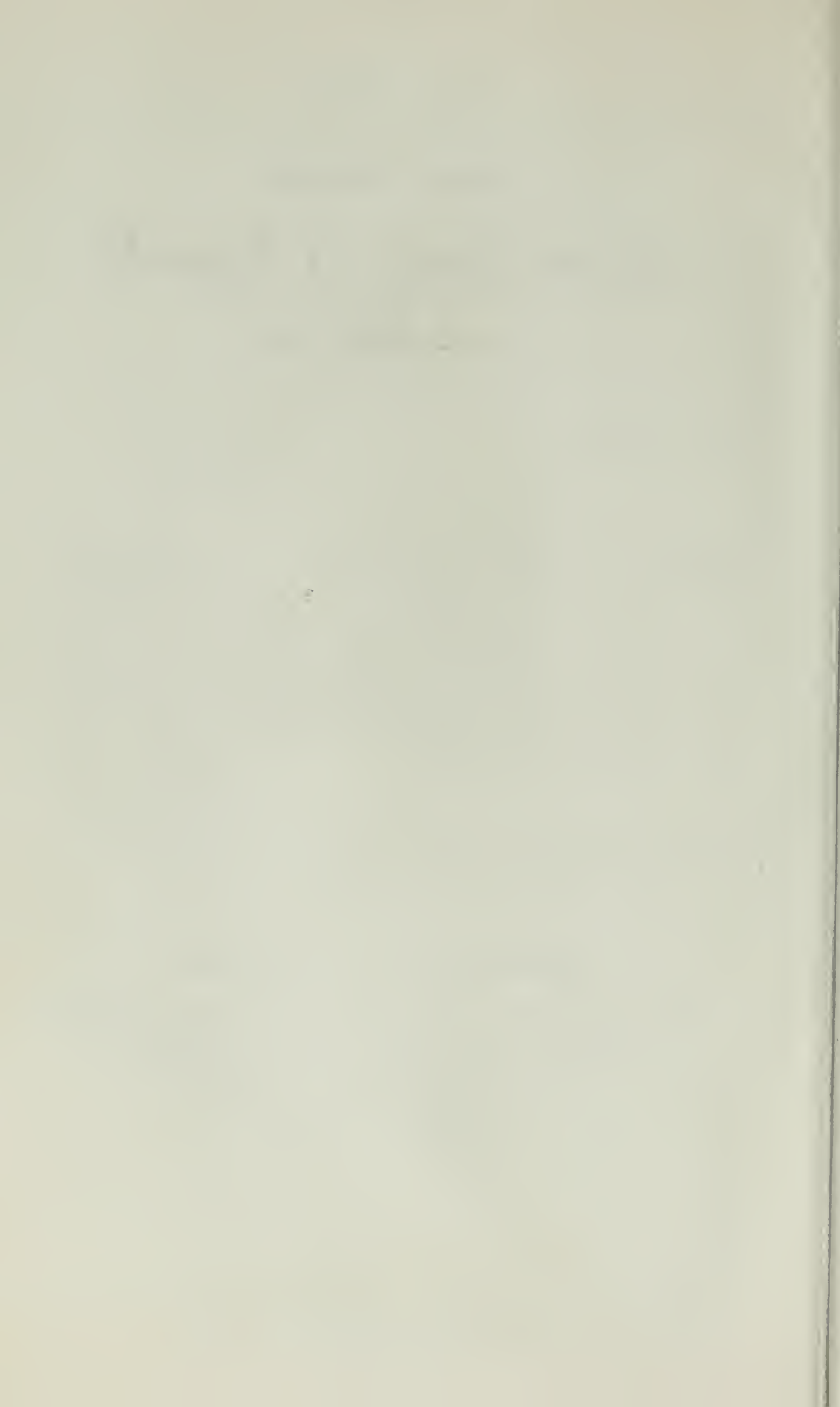
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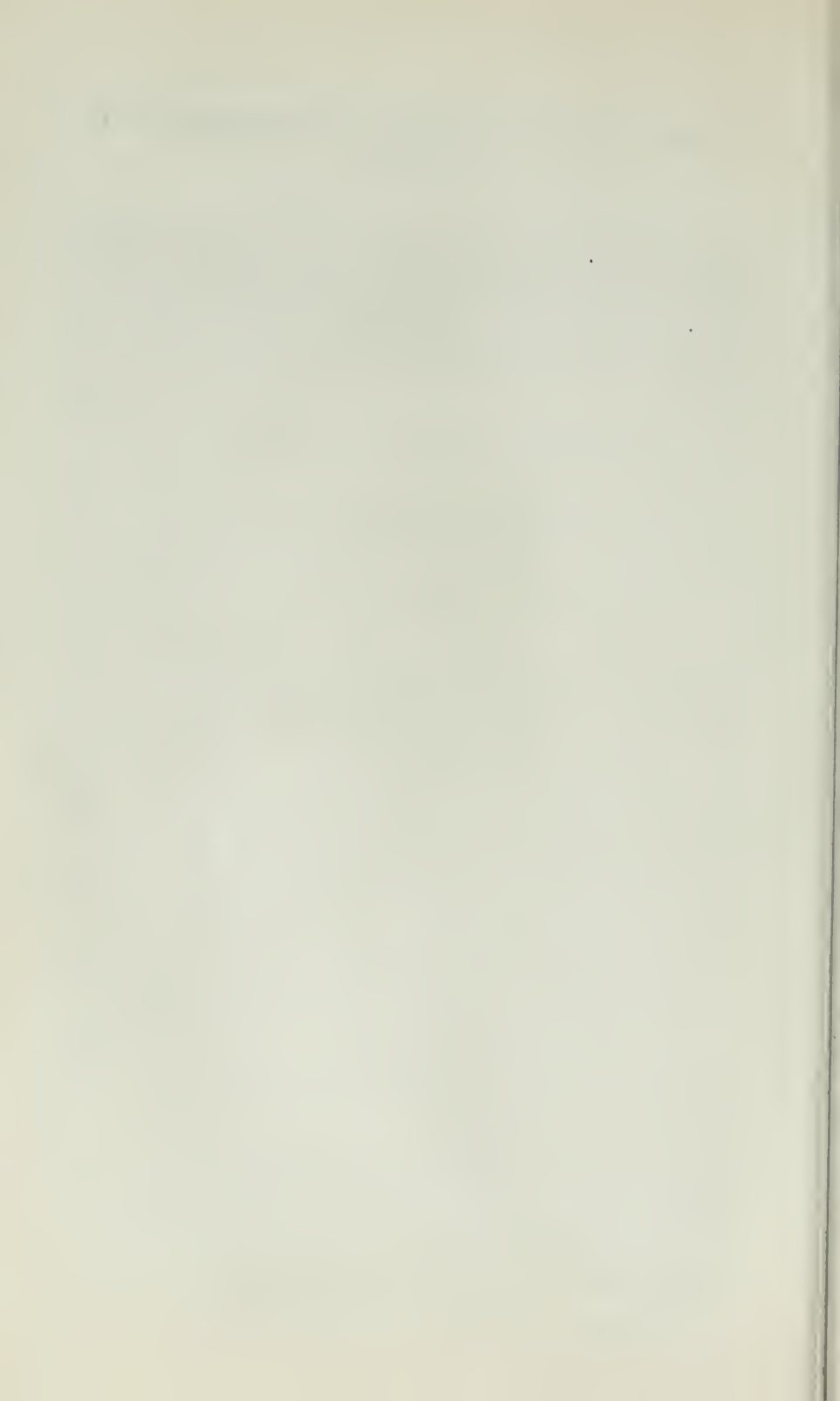
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*United States Circuit Court of Appeals for the Ninth
Circuit.*

R. L. SABIN,

Petitioner,

vs.

BLAKE, McFALL CO., a Corporation, KNIGHT
PACKING CO., a Corporation, HAZEL-
WOOD CO., a Corporation, and WM. H.
DRYER and W. W. BOLLAM, Partners
Trading as DRYER, BOLLAM & CO.,

Respondents.

Petition for Revision.

In the Matter of EQUAL RIGHTS COMPANY,
Inc., Alleged Bankrupt.

To the Honorable Judges of the United States Cir-
cuit Court of Appeals for the Ninth Circuit:

The petition of R. L. Sabin, a creditor, respectfully
shows unto the Court:

I.

That on the 8th day of September, 1914, an invol-
untary petition in bankruptcy was filed in the Dis-
trict Court of the United States for the District of
Oregon, by Blake, McFall Co., Knight Packing Co.,
Hazelwood Co., Corporations, and Dryer, Bollan Co.,
a partnership, against Equal Rights Company, Inc.,
a corporation, praying for an adjudication of said
Equal Rights Company, Inc., a corporation, a bank-
rupt.

II.

That on the 17th day of September, 1914, R. L.

Sabin, petitioner herein, presented to the Honorable Judges of the District Court of the United States for the District of Oregon a petition for leave to intervene as a creditor in the above-entitled bankruptcy cause and resist the adjudication as a bankrupt of said Equal Rights Company, Inc., and that upon said petition an order was duly entered on the same day granting said leave to intervene.

III.

That on the 17th day of September, 1914, R. L. Sabin, petitioner herein, moved to dismiss said petition of Blake, McFall Co. et als., and that said motion was duly heard by said court and sustained, and that the said Blake, McFall Co. et als., were, on the 29th day of September, 1914, granted leave upon terms to file an amended petition in bankruptcy therein.

IV.

That on the 13th day of October, 1914, said Blake, McFall Co. et als., filed their amended petition in involuntary bankruptcy in said bankruptcy cause, and that thereafter on the 17th day of October, 1914, R. L. Sabin, petitioner herein, duly filed a motion to dismiss said amended petition of Blake, McFall Co., et als., in said bankruptcy cause, which motion was duly heard by said court and sustained; and that upon request said Blake, McFall Co. et als., were again granted leave to file an amended petition in said cause.

V.

That on the 26th day of October, 1914, said Blake, McFall Co., et als., filed their amended petition in

involuntary bankruptcy in said bankruptcy cause, and that thereafter on the 5th day of November, 1914, said R. L. Sabin, petitioner herein, filed in said bankruptcy cause a motion to dismiss said amended petition, which motion was duly heard by said court and sustained.

VI.

That on the 16th day of November, 1914, the said court upon motion of said Blake, McFall Co. et als., granted unto said Blake, McFall Co. et als., five days within which to file another amended petition in said bankruptcy cause, the said order sustaining the motion to dismiss and granting leave to amend is set forth in the transcript of record filed herewith.

VII.

That on the 23d day of November, 1914, and two days after said five days had expired, said Blake, McFall Co. et al., moved the court *ex parte* for further time to file their said amended petition in bankruptcy, and the court accordingly granted said movants until the 23d day of November, 1914, within which to file their said amended petition; said order granting leave to file said amended petition is set forth in the transcript of record filed herewith.

VIII.

That said amended petition of Blake, McFall Co. et als., which was denominated by them "Second Amended Petition," was not filed on said 23d day of November, 1914, the limit within which leave was granted for the filing of the same, and was not filed until the 25th day of November, 1914, and after the time for filing the same had expired; said amended

petition is set forth in the transcript of record filed herewith.

IX.

That on the 3d day of December, 1914, in said bankruptcy cause, R. L. Sabin, petitioner herein, duly filed a motion to dismiss said amended petition of Blake, McFall Co. et als., denominated as above set forth "Second Amended Petition," a true copy of which motion is set forth in the transcript of record herewith filed.

X.

That on the 24th day of December, 1914, the Honorable R. S. Bean, Judge of the District Court of the United States for the District of Oregon, entered an order denying the said motion to dismiss said petition denominated "Second Amended Petition," said matter having been fully argued before said court, copy of which order is set forth in the transcript of record filed herewith.

XI.

That no proof was taken in connection with the determination of said motion to dismiss and the entire proceeding upon which said dismissal was grounded appears in the transcript of record filed herewith.

XII.

That no opinion was filed by said Court in the matter.

XIII.

That said order denying and overruling said motion to dismiss was erroneous in matter of law because:

1. There is nowhere alleged in said involuntary petition in bankruptcy, with that degree of particularity required in pleading, or at all, that the alleged bankrupt corporation comes within one or more of the permitted classes of corporations made amenable to the involuntary feature of the Bankruptcy Act.

2. The petition does not show or allege the nature of one of the petitioning creditors' claims (that of Dryer, Bollam & Co.), and the statement of the nature of said claim in itself is inconsistent, and without said claim the amount of the petitioning creditors' claims would be below the jurisdictional limit, namely \$500.00.

3. The verification of the petition is not sufficient, nor as provided by the official forms in bankruptcy promulgated by virtue of the Bankruptcy Act of 1898.

4. The last amended petition was not filed within the time allowed by the order granting leave to amend, and order granting further time was not taken until after the original time had expired, and further, said petition was not even then filed until after the time had expired as granted in the order allowing further time.

XIV.

That all the reasons and points above set forth were raised, insisted upon, and argued before said District Court of the United States for the District of Oregon.

WHEREFORE, your petitioner prays that the order of the District Court of the United States for the District of Oregon denying and overruling the

motion to dismiss said amended petition in involuntary bankruptcy entered the 24th day of December, 1914, may be revised and reviewed in matter of law by your Honorable Court, as provided by Section 24-b of the Bankruptcy Act of 1898 and the rules and practice thereunder in such cases made and provided, and that said order be set aside and held for naught, with such directions to the District Court of the United States for the District of Oregon as to this Court may seem proper.

Dated this 28th day of December, 1914.

SIDNEY TEISER,
Attorney for Petitioner.

United States of America,
Dist. and State of Oregon,
County of Multnomah,—ss.

R. L. Sabin, the petitioner mentioned and described in the foregoing petition, does hereby make solemn oath that the statements contained therein are true as he verily believes.

R. L. SABIN,

Subscribed and sworn to before me this 28th day of December, 1914.

[Seal] O. S. CROCKER,
Notary Public for Oregon, Residing at Tigard,
Washington County.

[Endorsed]: No. 2541. United States Circuit Court of Appeals, for the Ninth Circuit. R. L. Sabin, Petitioner, vs. Blake, McFall Co., a Corpn., Knight Packing Co., a Corpn., Hazelwood Co., a Corpn., and Wm. H. Dryer and W. W. Bollam, Part-

ners Trading as Dryer, Bollam & Co., Respondents,
In the Matter of Equal Rights Company, Inc., Al-
leged Bankrupt. Petition for Revision. Filed Dec.
31, 1914. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals, for
the Ninth Circuit.*

R. L. SABIN,

Petitioner,

vs.

BLAKE McFALL COMPANY, a Corporation,
KNIGHT PACKING COMPANY, a Cor-
poration, HAZELWOOD COMPANY, a Cor-
poration, and WM. H. DRYER and W. W.
BOLLAM, Partners Trading as DRYER,
BOLLAM & COMPANY,

Respondents.

EQUAL RIGHTS COMPANY, INC.,

Alleged Bankrupt.

On Review of an Order of the District Court of the
United States for the District of Oregon, Deny-
ing Motion to Dismiss Second Amended Peti-
tion.

Names and Addresses of Attorneys of Record.

SIDNEY TEISER, Morgan Building, Portland, Oregon, for Petitioner.

MANNING, SLATER and LEONARD and
BARGE E. LEONARD, Fenton Building,
Portland, Oregon, for Respondents.

JOE STEARNS, Washington Building, Portland,
Oregon, for Alleged Bankrupt.

*In the District Court of the United States, for the
District of Oregon.*

July Term, 1914.

BE IT REMEMBERED, That on the 26th day of
October, 1914, there was duly filed in the District
Court of the United States for the District of Ore-
gon, an Answer to the Petition of Petitioning Cred-
itors, in words and figures as follows, to wit: [1*]

*In the District Court of the United States, for the
District of Oregon.*

In the Matter of EQUAL RIGHTS COMPANY,
INC., a Corporation,

Alleged Bankrupt.

Answer.

Comes now the said Equal Rights Company, Inc.,
a corporation, alleged bankrupt, against whom a
petition for adjudication in bankruptcy has been

*Page-number appearing at foot of page of original certified Record.

filed herein, and makes the following answer to said petition:

I.

Admits that the alleged bankrupt is a corporation organized and existing under and by virtue of the laws of the State of Oregon with its principal office and place of business in the City of St. Johns, County of Multnomah, and State of Oregon, engaged in the general retail merchandise business in said city, county and State.

II.

Admits that the said corporation owes debts above the sum and in excess of One Thousand (\$1,000.00) Dollars.

III.

Admits that Blake McFall Company, a corporation, night Packing Company, a corporation, Dryer, Bollam Co., a copartnership, and Hazelwood Co., a corporation, petitioning creditors have provable unsecured claims against the Equal Rights Company, Inc., a corporation, which amount in the aggregate to Five Hundred Thirteen and 09/100 (\$513.09) Dollars. [2]

IV.

Admits that on or about the 4th day of September, 1914, in the Circuit Court of the State of Oregon, for the County of Multnomah, in that certain case therein pending in which John Schmauder and Jacob Schmauder were plaintiffs and this corporation, A. Porter, W. H. King, O. Chowning, L. Chowning, Will Wallace and George Wallace were defendants, application was made for the appointment of a Re-

ceiver and the Court being fully advised in the premises appointed a Receiver of the said Equal Rights Company, Inc., a corporation, with the usual power of receivers in like cases, and said receiver being appointed on the ground and for the reason that said corporation was insolvent and unable to pay or meet its obligations which were then due, and defendants property, at a fair valuation is insufficient to pay its debts.

V.

Admits that said corporation is insolvent and unable to pay and meet its obligations which are now past due.

WHEREFORE, and by reason of the foregoing the Alleged Bankrupt, the Equal Rights Company, Inc., a corporation, are willing to be adjudged a bankrupt as prayed for in the creditors amended petition heretofore made and filed herein.

EQUAL RIGHTS COMPANY, Inc.

By E. G. MILLER, Sec.

J. O. STEARNES, Jr.,

Attorney for Alleged Bankrupt.

State of Oregon,

County of Multnomah,—ss.

I, E. G. Miller, Secretary of Equal Rights Company, Inc., a corporation, the answering bankrupt mentioned and described in the foregoing answer, do hereby make solemn oath that the statement of facts contained in such answer are true according to the best of my knowledge, information and belief; and also that the list annexed hereto and herein referred to comprise all the creditors of the said Equal Rights

Company, Inc., a corporation, and their names and addresses so far as are known or can be ascertained.

E. G. MILLER,

Secretary Equal Rights Company, Inc.

Subscribed and sworn to before me this 16th day of October, A. D. 1914.

[Notarial Seal]

VIRGIL L. CLARK,

Notary Public for Oregon.

Filed October 26, 1914. G. H. Marsh, Clerk. [3]

And afterwards, to wit, on the 16th day of November, 1914, there was duly Filed in said Court, an Order Dismissing Petition of Petitioning Creditors and Granting Leave to File Amended Petition, in words and figures as follows, to wit: [4]

In the District Court of the United States, for the District of Oregon.

In the Matter of EQUAL RIGHTS COMPANY,
INC.,

Alleged Bankrupt.

**Order Sustaining Motion to Dismiss Creditors'
Second Amended Petition.**

This cause came on this day to be heard upon motion of R. L. Sabin, respondent, to dismiss the amended petition in involuntary bankruptcy as amended by interlineation, filed herein on the 26th day of October, 1914, by Blake, McFall Co., Knight Packing Company, Dryer, Bollam Co., and Hazelwood Co., for the adjudication of Equal Rights Company, Inc., a bankrupt, and it appearing that said

motion is well taken and made,

IT IS ORDERED that said motion to dismiss said petition in bankruptcy be and the same is hereby sustained, with leave to amend within five days.

Dated this 16th day of November, 1914.

(Signed) R. S. BEAN,
Judge.

Filed November 16, 1914. G. H. Marsh, Clerk.

[5]

And afterward, to wit, on the 23d day of November, 1914, there was duly filed in said Court, an Order Extending Time to File Amended Petition, in words and figures as follows, to wit: [6]

*In the District Court of the United States for the
District of Oregon.*

In the Matter of EQUAL RIGHTS COMPANY,
INC., a Corporation,

Alleged Bankrupt.

**Order [Allowing Petitioning Creditors to November
23, 1914, to File Amended Petition].**

This matter having come on for hearing upon motion of Barge E. Leonard, of attorneys for petitioning creditors in the above-entitled cause, for an order extending the time to and including the 23d day of November, A. D. 1914, in which to file creditors' second amended petition herein, and R. L. Sabin, objecting creditor, appearing by and through his attorney, Sidney Teiser,

And it appearing to the Court that on the 16th

day of November, 1914, a motion to dismiss the petition of petitioning creditors came on for hearing, and petitioning creditors having been given five days in which to file an amended petition herein, and the Court being fully advised in the premises,

IT IS THEREFORE ORDERED that the petitioning creditors be and they are hereby allowed to and including the 23d day of November, 1914, in which to file their amended petition against the above-named alleged bankrupt.

Done and dated this 23d day of November, A. D. 1914.

Witness the Honorable CHARLES E. WOLVERTON, Judge of said Court and the seal thereof, at Portland, in said District, this 23d day of November, 1914.

[Seal]

G. H. MARSH,
Clerk.

Filed November 23, 1914. G. H. Marsh, Clerk.
[7]

And afterwards, to wit, on the 25th day of November, 1914, there was duly filed in said Court, a Second Amended Petition, in words and figures as follows, to wit: [8]

*In the District Court of the United States for the
District of Oregon.*

In the Matter of EQUAL RIGHTS COMPANY,
INC., a Corporation,

Alleged Bankrupt.

Creditors' Second Amended Petition.

To the Honorable CHARLES E. WOLVERTON and the Honorable R. S. BEAN, Judges of the District Court of the United States for the District of Oregon:

The petition of Blake, McFall Company, an Oregon corporation, Knight Packing Company, an Oregon corporation, Hazelwood Company, an Oregon corporation, and Dryer, Bollam & Company, a copartnership; all of said petitioners, except Dryer Bollam & Company being corporations duly incorporated, organized and existing under and by virtue of the laws of the State of Oregon, with their principal offices and places of business in the City of Portland, County of Multnomah and State of Oregon, and William H. Dryer and W. W. Bollam being copartners doing business under the firm name and style of Dryer, Bollam & Company, with their principal place of business in the City of Portland, County of Multnomah, State of Oregon, respectfully shows:

I.

That the Equal Rights Company, Inc., is a corporation duly incorporated, organized and existing under and by virtue of the laws of the State of Oregon, with its principal place of business in the City of St. Johns, County of Multnomah and State of Oregon, and that said corporation has for the greater part of six months next preceding the date of the filing of the original petition [9] herein had its principal place of business in the said City

of St. Johns, County of Multnomah, State of Oregon and District aforesaid, and as such was engaged in the general retail merchandise business, and that said corporation owes debts in the amount of \$1,000.00 and upwards.

II.

That the said Equal Rights Company, Inc., a corporation, is insolvent and is neither a wage earner, nor a person engaged in farming or tillage of the soil, nor a municipal, railroad, insurance or banking corporation; and that the tangible assets of the said Equal Rights Co., Inc., a corporation, will not exceed the sum of \$1000.00.

III.

That your petitioners are creditors of the said Equal Rights Company, Inc., a corporation, having provable claims against it amounting in the aggregate and in excess of the securities held by them to the sum of \$500.00 and upwards.

IV.

That none of your petitioners are entitled to priority of payment of its said claim within the meaning of Section 64b of the United States Bankruptcy Act and amendments thereof; nor has any of your petitioners received a preference within the meaning of Section 60a-b of such Act as amended.

V.

That the nature and amount of your petitioners' claims are as follows:

Blake, McFall Company, a corporation,
money due on open account for goods

sold and delivered to the Equal Rights Company, Inc., a corporation, from March 5th, 1914, to July 18th, 1914. . . . \$163.67

Hazelwood Company, a corporation, money due on open account for goods sold and delivered to Equal Rights Company, Inc., a corporation, from April 9th, 1914, to May 23d, 1914. 224.64

Forward. \$388.31

[10]

Forward. \$388.31

Knight Packing Company, a corporation, money due on open account for goods sold and delivered to the Equal Rights Company, Inc., a corporation, from December 4, 1913, to July 11, 1914. 44.78

Dryer, Bollam & Company, a co-partnership, money due on open account from Equal Rights Company, Inc., a corporation, upon a stated account rendered July 2d, 1914. 80.00

\$513.09

and that no part of said claims has been paid by said Equal Rights Company, Inc., or by anyone on its behalf, though duly demanded.

VI.

Your petitioners represent that the said Equal Rights Company, Inc., a corporation, while insolvent and within four months next preceding the date of the filing of the original petition herein, to wit: on

or about the 4th day of September, 1914, committed an act of bankruptcy, in that, in a suit instituted in the Circuit Court of the State of Oregon for the County of Multnomah by John Schmauder and Jacob Schmauder, plaintiffs, vs. Equal Rights Company, Inc., a corporation, A. Porter, W. H. King, O. Chowning, L. Chowning, N. C. Bailey, Will Wallace and George Wallace, defendants, upon motion of plaintiffs, for themselves and all other creditors similarly situated against the Equal Rights Company, Inc., a corporation, the alleged bankrupt herein, an order was duly made and entered on the said 4th day of September, 1914, appointing a receiver to take charge of the property of the said Equal Rights Company, Inc., a corporation, for the reason that said Equal Rights Company, Inc., was insolvent, and that the property of the Equal Rights Company, Inc., a corporation, taken at a fair valuation was insufficient to pay its debts, and that in pursuance of said order a receiver, namely, B. K. Knapp, was put in charge of said property of said Equal Rights Company, Inc., under the laws of the State of Oregon and that said B. K. Knapp as receiver duly filed his bond in the sum of \$1,500.00, which bond was duly approved [11] by the Circuit Court of the State of Oregon for the County of Multnomah, and the said B. K. Knapp ever since has been and now is the duly appointed, qualified and acting receiver of said Equal Rights Company, Inc., a corporation, and as such receiver is now in possession of all the assets of said Equal Rights Company, Inc., a corporation, alleged bankrupt.

WHEREFORE your petitioners pray that service of this petition and subpoena be made upon the said Equal Rights Company, Inc., a corporation, as provided by the Acts of Congress relating to bankruptcy as amended, and that it may be adjudged a bankrupt within the purview of said Acts.

BLAKE, McFALL COMPANY,
(Sg.) By F. C. WASSERMAN,
Secy.

KNIGHT PACKING COMPANY,
(Sg.) By W. J. MITCHELL,
Manager.

HAZELWOOD COMPANY,
(Sg.) By CARL SCHALLINGER,
President.

DRYER, BOLLAM & COMPANY,
(Sg.) By W. H. DRYER,
Member of Firm.

SEITZ & CLARK,
MANNING, SLATER & LEONARD,
Attorneys for Petitioners. [12]

United States of America,
District and State of Oregon,
County of Multnomah,—ss.

I, F. C. Wasserman, Secretary of Blake, McFall Company, a corporation, one of the petitioners above named, do hereby make solemm oath that I am authorized to sign the foregoing petition on behalf of said Blake, McFall Company, and that the statement of facts contained in the foregoing petition is true as I verily believe.

(Sg.) F. C. WASSERMAN.

Subscribed and sworn to before me this 23d day of November, A. D. 1914.

[L. S.] (Sg.) EDWIN W. MORGAN,
Notary Public for Oregon. [13]

United States of America,
District and State of Oregon,
County of Multnomah,—ss.

I, W. J. Mitchell, Manager of Credits of Knight Packing Company, a corporation, one of the petitioners above named, do hereby make solemn oath that I am authorized to sign the foregoing petition by and on behalf of said Knight Packing Company, and that the statement of facts contained in the foregoing petition is true as I verily believe.

(Sg.) W. J. MITCHELL.

Subscribed and sworn to before me this 23d day of November, A. D. 1914.

[L. S.] EDWIN W. MORGAN,
Notary Public for Oregon. [14]

United States of America,
District and State of Oregon,
County of Multnomah,—ss.

I, Carl Schallinger, President of Hazelwood Company, a corporation, one of the petitioners above named, do hereby make solemn oath that I am authorized to sign the foregoing petition on behalf of said Hazelwood Company, and that the statement of facts contained in the foregoing petition is true as I verily believe.

(Sg.) CARL SCHALLINGER.

Subscribed and sworn to before me this 23d day of November, A. D. 1914.

[L. S.]

EDWIN W. MORGAN,
Notary Public for Oregon. [15]

United States of America,
District and State of Oregon,
County of Multnomah,—ss.

I, W. H. Dryer, being one of the partners and a member of the firm of Dryer & Bollam Company, one of the petitioners above named, do hereby make solemn oath that the statement of facts contained in the foregoing petition is true as I verily believe.

W. H. DRYER.

Subscribed and sworn to before me this 23d day of November, A. D. 1914.

[L. S.]

EDWIN W. MORGAN,
Notary Public for Oregon.

United States of America,
District and State of Oregon,
County of Multnomah,—ss.

Due service of the within Creditors' Second Amended Petition is hereby accepted in Multnomah County, Oregon, this 23d day of November, 1914, by receiving a copy thereof, duly certified to as such by Marge E. Leonard of Attorneys for Petitioners.

JOE STEARNS,
Attorney for Alleged Bankrupt.
SIDNEY TEISER,
Attorney for Objecting Creditor.

Filed November 25, 1914. G. H. Marsh, Clerk.
[16]

And afterwards, to wit, on the 25th day of November, 1914, there was duly filed in said Court, a Stipulation, in words and figures as follows, to wit:
[17]

*In the District Court of the United States for the
District of Oregon.*

In the Matter of EQUAL RIGHTS COMPANY,
INC., a Corporation,

Alleged Bankrupt.

**Stipulation [as to Answer to Creditors' Second
Amended Petition].**

IT IS HEREBY STIPULATED by and between Barge E. Leonard, one of the petitioners' attorneys herein, and J. Stearns, attorney for alleged bankrupt, that the answer heretofore filed herein by the said alleged bankrupt to the amended petition herein be and the same is to be considered an answer to the creditors' second amended petition.

Done and dated, Portland, Oregon, this — day of November, 1914.

BARGE E. LEONARD,
Of Attorney for Petitioners.
JOE STEARNS,
Attorney for Alleged Bankrupt.

Filed November 25, 1914. G. H. Marsh, Clerk.
[18]

And afterwards, to wit, on the 3d day of December, 1914, there was duly filed in said Court, a Motion to Dismiss Second Amended Petition, in words and figures as follows, to wit: [19]

In the District Court of the United States for the District of Oregon.

In the Matter of EQUAL RIGHTS COMPANY,
INC., a Corporation,

Alleged Bankrupt.

Motion to Dismiss Petition Denominated as "Second Amended Petition."

Comes now R. L. Sabin, a creditor of the above-named alleged bankrupt, by his attorney Sidney Teiser, Esquire, and moves to dismiss the petition denominated as "Creditors' Second Amended Petition," of Blake, McFall Co., Dryer, Bollam & Co., Knight Packing Co., and Hazelwood Co., filed herein on the 25th day of November, 1914, upon the following grounds:

I.

That it appears on the face of the petition that the Court is without jurisdiction to grant the relief prayed for in said petition.

II.

That said petition does not state facts sufficient to warrant the granting of the relief prayed for therein.

III.

That said petition does not show that the alleged bankrupt is amenable to the provisions of the Bankruptcy Act.

IV.

That the nature of the claim of Dryer, Bollam & Co., one of the petitioning creditors therein, is not properly or fully set forth, and that without the claim of the said petitioning creditor, the jurisdictional amount required to be held by the petitioning creditors by the Bankruptcy Act as amended, viz.: \$500.00, would not be held by said petitioning creditors. [20]

V.

That said amended petition is not verified according to law and the requirements of the Bankruptcy Act of 1898 as amended.

VI.

That said amended petition was not filed within the time allowed by the order permitting the amendment, nor by the order subsequently entered on the 23d day of November, 1914, which date of entry was after the original time had expired.

SIDNEY TEISER,

Attorney for R. L. Sabin, Creditor and Respondent.

State of Oregon,

County of Multnomah,—ss.

I, R. L. Sabin, being duly sworn, depose and say that I am a creditor herein, and that the foregoing Motion to Dismiss is not interposed for delay.

R. L. SABIN.

Subscribed and sworn to before me this 3d day of December, 1914.

[Seal]

H. A. KETTERMAN,

Notary Public for Oregon.

I hereby certify that the foregoing Motion to Dismiss is in my opinion well founded in point of law.

Dated this 3d day of December, 1914.

SIDNEY TEISER,
Attorney for R. L. Sabin, Creditor and Respondent.
United States of America,
State of Oregon,
County of Multnomah,—ss.

Due service of the within Motion to Dismiss is hereby accepted in Multnomah County, Oregon, this 3d day of December, 1914, by receiving a copy thereof, duly certified to as such by Sidney Teiser, Attorney for R. L. Sabin, Creditor and Respondent.

BARGE E. LEONARD,
Of Attorneys for Petitioning Creditors.

Filed December 3, 1914. G. H. Marsh, Clerk.
[21]

And afterwards, to wit, on the 24th day of December, 1914, there was duly filed in said Court an Order Denying Motion to Dismiss Second Amended Petition, in words and figures as follows, to wit: [22]

*In the District Court of the United States for the
District of Oregon.*

In the Matter of EQUAL RIGHTS COMPANY,
a Corporation,

Bankrupt.

**Order Denying Motion to Dismiss Second Amended
Petition of Petitioning Creditors.**

This matter having come on for hearing on the 14th day of December, 1914, on motion of objecting creditor for an order dismissing the second amended petition of petitioning creditors, and after arguments of counsel for and against said motion, in support and against said motion, and the Court having taken the matter under advisement and fully considered all matters in said motion, and the Court being fully advised in the premises,

IT IS THEREFORE ORDERED that the motion of objecting creditor against the second amended petition of petitioning creditors, be, and the same is hereby in all manners and respects denied.

The 24th day of December, A. D. 1914.

(Signed) R. S. BEAN,
Judge.

Filed December 24, 1914. G. H. Marsh, Clerk.

And afterwards, to wit, on the 28th day of December, 1914, there was duly filed in said Court, a Notice of Filing Petition for Review, in words and figures as follows, to wit: [24]

United States Circuit Court of Appeals for the Ninth Circuit.

R. L. SABIN,

Petitioner,

vs.

BLAKE, McFALL CO., a Corporation, KNIGHT
PACKING CO., a Corporation, HAZEL-
WOOD CO., a Corporation, and WM. H.
DRYER and W. W. BOLLAM, Partners
Trading as DRYER, BOLLAM & CO.,

Respondents.

In the Matter of EQUAL RIGHTS COMPANY,
INC.,

Alleged Bankrupt.

Notice of Filing Petition for Review.

To Blake, McFall Co., a Corporation, Knight Pack-
ing Co., a Corporation, Hazelwood Co., a Cor-
poration, and Wm. H. Dryer and W. W. Bollam,
Partners Trading as Dryer, Bollam & Co., and
Seitz & Clark and Barge E. Leonard, Their At-
torneys; Equal Rights Company, Inc., and J. O.
Stearns, Jr., Its Attorney.

You are hereby notified that on the 31st day of
December, 1914, I will file in the clerk's office of the
United States Circuit Court of Appeals for the Ninth
Circuit, in the city of San Francisco, California, a

petition for review in the above-entitled cause, a copy of which petition is hereto attached as a part of this notice, and I will then ask to have the case docketed and the necessary order made therein to have said case set down for hearing.

Dated this 28th day of December, 1914.

SIDNEY TEISER,

Attorney for Petitioner. [25]

United States of America,
Dist. and State of Oregon,
County of Multnomah,—ss.

Due service of the within Notice of Filing Petition for Review is hereby accepted in Multnomah County, Oregon, this 28th day of December, 1914, by receiving a copy thereof duly certified to as such by Sidney Teiser, Esquire, attorney for petitioner herein, together with a copy of the Petition for Revision duly certified to as such by Sidney Teiser, Esquire, attorney for Petitioner herein.

BARGE E. LEONARD,

Of Attorneys for Respondents.

J. O. STEARNS,

Atty. for Bankrupt.

Filed December 28, 1914. G. H. Marsh, Clerk.
[26]

And afterwards, to wit, on the 28th day of December, 1914, there was duly filed in said Court, a Stipulation as to Record on Review, in words and figures as follows, to wit: [27]

United States Circuit Court of Appeals for the Ninth Circuit.

R. L. SABIN,

Petitioner.

vs.

BLAKE, McFALL CO., a Corporation, KNIGHT
PACKING CO., a Corporation, HAZEL-
WOOD CO., a Corporation, and WM. H.
DRYER and W. W. BOLLAM, Partners
Trading as DRYER, BOLLAM & CO.,

Respondents.

In the Matter of EQUAL RIGHTS COMPANY,
INC.,

Alleged Bankrupt.

Stipulation [as to Record on Petition for Revision].

It is hereby stipulated by and between R. L. Sabin, Petitioner, and Blake, McFall Co., a corporation, Knight Packing Co., a corporation, Hazelwood Co., a corporation, and Wm. H. Dryer and W. W. Bollam, partners trading as Dryer, Bollam & Co., Respondents, by and through their respective attorneys, that the following papers were all the papers and records used on the hearing and determination of the matter in the District Court of the United States for the District of Oregon, and that the same

are all the record and papers necessary for the consideration and determination of the question presented for review by the petition for revision and review in the United States Circuit Court of Appeals for the Ninth Circuit, and that the same are hereby agreed upon as all the papers, documents, and records to be included in the transcript of record in said cause, viz.:

1. Petition of R. L. Sabin for revision.
2. Order made and entered November 16, 1914, granting leave to Blake, McFall Co. et als., to file amended petition.
3. Order made and entered November 23, 1914, granting further time to Blake, McFall Co. et als., to file amended petition.
4. Answer of alleged bankrupt to first amended Complaint, except list of creditors appended thereto.
5. Stipulation filed Nov. 25th, 1914, between attorney for alleged bankrupt and attorney for petitioning creditors. [28]
6. Petition in involuntary bankruptcy of Blake, McFall Co., Knight Packing Co., Hazelwood Co., and Dryer, Bollam & Co., denominated "Second Amended Petition," filed in said bankruptcy cause.
7. Motion of R. L. Sabin to dismiss, filed December 3, 1914.
8. Order made and entered the 24th day of December, 1914, denying said motion to dismiss.
9. Notice of presentation of petition for revision and proof of service thereon.

10. This stipulation designating papers for record on such review.

SIDNEY TEISER,

Attorey for Petitioner.

BARGE E. LEONARD,

Of Attorneys for Respondents.

Filed December 28, 1914. G. H. Marsh, Clerk.

[29]

**[Certificate of Clerk U. S. District Court to
Transcript of Record on Petition for Revision.]**

United States of America,

District of Oregon,—ss.

I. G. H. Marsh, Clerk of the District Court of the United States for the District of Oregon, do hereby certify that the foregoing pages numbered from 1 to 29 constitute the transcript for review by the United States Circuit Court of Appeals for the Ninth Circuit of the Record and Proceedings, had in the District Court of the United States for the District of Oregon in the Matter of the Equal Rights Company, Incorporated, a corporation, alleged bankrupt; that said transcript has been prepared in accordance with the stipulation of the parties filed in said proceedings, and is a true and complete transcript of the said record and proceedings, in accordance with said stipulation.

And I further certify that the cost of the foregoing transcript is \$12.60 and that the same has been paid by the objecting creditor.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Portland in said District this 29th day of December, 1914.

[Seal]

G. H. MARSH,
Clerk.

[Ten Cents Internal Revenue Stamp. Canceled
Dec. 29, 1914. G. H. M.] [30]

[Endorsed]: No. 2541. United States Circuit Court of Appeals for the Ninth Circuit. R. L. Sabin, Petitioner, vs. Blake, McFall Company, a Corporation, Knight Packing Company, a Corporation, Hazelwood Company, a Corporation, and Wm. H. Dryer and W. W. Bollam, Partners Trading as Dryer, Bollam & Co., Respondents. In the Matter of Equal Rights Company, Incorporated, Alleged Bankrupt. Petition for Revision Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law, a Certain Order of the United States District Court for the District of Oregon.

Filed December 31, 1914.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

